IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 51 of 2004

Sadashiv Narayan Kulkarni .. Petitioner

versus

Spl. Land Acquisition Officer
No.12, Kolhapur & Ors. .. Respondents

A N D

CIVIL REVISION APPLICATION NO.155 of 2004

Bapuso Narayan Kulkarni
since deceased through LRs
Smt.Shailaja V. Kulkarni & Ors. .. Petitioners

versus

Spl. Land Acquisition Officer
No.12, Kolhapur & Ors. .. Respondents

A N D

CIVIL REVISION APPLICATION NO.156 of 2004

Vyankatesh V. Kulkarni .. Petitioner
since deceased through LRs
Smt.Shailaja V. Kulkarni & ors.

versus

Spl. Land Acquisition Officer

No.12, Kolhapur & Ors. .. Respondents

A N D

CIVIL REVISION APPLICATION NO.157 of 2004

Abhay Sadashiv Kulkarni .. Petitioner

versus

Spl. Land Acquisition Officer
No.12, Kolhapur & Ors. .. Respondents

...

Mr.A.M. Kulkarni for the petitioners.

Mrs.G.P. Mulekar for the responden nos.1 to 3.

CORAM : B.H. MARLLAPALLE,J

DATED : 24th August 2005.

ORAL ORDER :-

1. In all these Civil Revision Applications, the challenge is to the order passed by the Land Acquisition Officer rejecting/returninng the applications submitted u/s.18 of the Land Acquisition Act 1894, on the ground that they were submitted

belatedly and beyond the time limit set out in the said section. The Civil Revision Applications are therefore heard and decided by this common order and more so because all the claimants are covered by the same award.

2. It is contended by Mr.Kulkarni, the learned counsel for the petitioner that the award was passed on 30th September 2002 in respect of the land acquired from the petitioners' ownership but notice u/s.12(2) of the Act was not issued to the petitioners at any time and they got the knowledge of the award only after they received the certified true copies of the award on 6th October 2003 or 11th February 2004 as the case may be. Under such circumstances, the applications submitted u/s.18 of the Act to the Collector on 15th November 2003 and/or 10th June 2004 as the case may be were in time i.e. within a period of six months from the receipt of the certified copy of the award. Mr.Kulkarni therefore relied upon the second part of sub-section (2)(b) of section 18 r/w sec.45 of the Act and submitted that when there was failure to serve the notice by the modes or manner provided u/s.45 of the Act, the applications submitted u/s.18 within a period of six

months from receipt of the certified copy of the award ought to have been entertained and the impugned orders as passed by the Land Acquisition Officer returning the applications are manifestly erroneous calling for interference by this Court.

3. The Land Acquisition Officer has addressed a letter dated 11th August 2005 to the Registrar of this Court informing that he could not visit Mumbai for producing the record and file reply on account of his pre-occupation for rehabilitation of the flood affected citizens. However from the record, he has communicated the dates of notices issued u/s.4 as well as section 6 and the award passed u/s.11 of the Act. He has also stated that possession of the lands acquired from the petitioners ownership has been taken on 24th November 2004. He has also submitted copies of documents in support of his contentions that notices u/s.12(2) of the Act were sent to the Tahsildar who inturn called upon the Talathi of Village Galgale, Taluka : Kagal to serve the notices on the claimants who were in all 27 in numbers. The talathi went to the village on 18.6.2003, in the village Chavdi/Panchayat all these 27 claimants were

called and notices u/s.12(2) were sought to be served in the presence of the village Police Patil and the Sarpanch. The panchnama signed by the Police Party and Sarpanch on 18th June 2003 states that these notices were served on the individual claimants by the Talathi and the claimants refused to accept the said notices. The names of Shri Sadashiv Narayan Kulkarni, Bapuso Narayan Kulkarni and Atul Sadashiv Kulkarni are at Serial Nos.24 to 27 in the statement attached to the said panchnama. It is further shown on record that Shri Sadashiv N. Kulkarni, Atul Sadashiv Kulkarni, Bapuso N. Kulkarni, Abhay S. Kulkarni and Venkatesh B. Kulkarni submitted a representation to the District Rehabilitation Officer, Kolhapur on 18.8.2003 and in the said representation they admitted to have received the notice issued by the Collector and stated that these notices were unjust and the slab of 8 acres was requested to be accepted. It is thus clear that the notices u/s.12(2) of the Act were sought to be served and they were refused by the petitioner on 18th June 2003 at Village Galgale and in any case when they submitted the representation on 18.8.2003, they had already disclosed the knowledge of the said notices having been issued. The applications submitted on

15th December 2003 and/or on 10th June 2004 as the case may be were thus beyond a period of six weeks with reference to 18.6.2003 as well as 18.8.2003. Sub-section 2(b) of section 18 of the Act states that the application to the Collector for a reference to ba made to the Court for enhancement of compensation is required to be submitted within a period of six weeks of the receipt of the notices from the Collector u/s.12(2) of the Act and in the instant case, this time limit would not be fulfilled. The contention of Mr.Kulkarni that the time available to the petitioners was of six months from the receipt of the certified true copy of the award, cannot be accepted, When the record shows that the notices u/s.12(2) of the Act were served on the petitioners on 18.6.2003 but were refused to be accepted by them individually and in any case this knowledge of the notice was spaciously set out in the representation dated 18th August 2003.

4. A Full bench of this Court in the case of Suresh Marutrao Jadhav Vs. State of Maharashtra & Anr. reported in 2002(5) BCR 347 has held that while entertaining an application u/s.18 of the Act, the Collector does not act as a Court and therefore, the

provisions of section 5 of the Limitation Act are not applicable for such applications. The law laid down by the Full Bench of this Court does not permit the limitation period to be enlarged beyond six weeks. Therefore, the orders impugned cannot be forfeited.

5. Civil Revision Applications fail and they are thereby rejected summarily.

B.H. MARLAPALLE, J